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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 150603502-5502-01]

RIN 0648-BF14

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region; Framework Amendment 3

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Framework Amendment 3 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources (CMP) in the exclusive economic zone (EEZ) of the Gulf of Mexico and Atlantic Region (FMP) (Framework Amendment 3), as prepared and submitted by the Gulf of Mexico Fishery Management Council (Council). This proposed rule would modify the trip limit, accountability measures (AMs), dealer reporting requirements, and gillnet permit requirements for commercial king mackerel landed by

run-around gillnet fishing gear in the Gulf of Mexico (Gulf). The purpose of this proposed rule is to increase the efficiency, stability, and accountability, and to reduce the potential for regulatory discards of king mackerel in the commercial gillnet component of the CMP fishery.

DATES: Written comments must be received on or before *[insert date 30 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on the proposed rule, identified by "NOAA-NMFS-2015-0101" by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0101*, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All

comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of Framework Amendment 3, which includes an environmental assessment, a Regulatory Flexibility Act analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_sa/cmp/2015/framework_am3/index.html.

Comments regarding the burden-hour estimates, clarity of the instructions, or other aspects of the collection-of-information requirements contained in this proposed rule (see the Classification section of the preamble) may be submitted in writing to Adam Bailey, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; or the Office of Management and Budget (OMB), by

email at *OIRASubmission@omb.eop.gov*, or by fax to 202-395-5806.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, NMFS Southeast Regional Office, telephone: 727-824-5305, or e-mail: *susan.gerhart@noaa.gov*.

SUPPLEMENTARY INFORMATION: The CMP fishery in the Gulf and Atlantic is managed under the FMP. The FMP was prepared by the Gulf and South Atlantic Fishery Management Councils and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

Current Federal regulations allow for run-around gillnets to be used to commercially harvest king mackerel only in the Florida west coast southern subzone of the Gulf. This subzone includes waters off Collier County, Florida, year-round, and off Monroe County, Florida, from November 1 to March 30. To use gillnets for king mackerel, vessels must have on board a general Federal commercial king mackerel permit and a Federal king mackerel gillnet permit. A vessel with a gillnet permit is prohibited from fishing for king mackerel with hook-and-line gear. This proposed rule would modify management of the king mackerel

gillnet component of the CMP fishery by increasing the commercial trip limit, revising AMs, modifying dealer reporting requirements, and requiring a documented landing history for a king mackerel gillnet permit to be renewed.

Management Measures Contained in this Proposed Rule

Commercial Trip Limit

This proposed rule would increase the commercial trip limit for vessels harvesting king mackerel by gillnets from 25,000 lb (11,340 kg) to 45,000 lb (20,411 kg). The size of a school of king mackerel can be difficult to estimate precisely and king mackerel landed in gillnets experience very high discard mortality, which makes releasing fish in excess of the trip limit wasteful and impractical. Fishermen can cut the net and leave the section with excess fish in the water and another vessel may be able to retrieve the partial net, but this process damages gear, which takes time and money to repair. Fishermen have indicated that more than 90 percent of successful gillnet gear deployments yield less than 45,000 lb (20,411 kg) of fish. Therefore, increasing the current trip limit should reduce the number of trips that result in king mackerel landings in excess of the commercial trip limit and the associated discard mortality.

Accountability Measures

Currently, the commercial AM for the king mackerel gillnet component of the fishery is an in-season closure when the annual catch limit for the gillnet component (gillnet ACL) is reached or is projected to be reached. This proposed rule would add a provision by which any gillnet ACL overage in one year would be deducted from the gillnet ACL in the following fishing year. If the gillnet ACL is not exceeded in that following fishing year, then in the subsequent year the gillnet ACL would return to the original gillnet ACL level as specified in § 622.388(a)(1)(ii). However, if the adjusted gillnet ACL is exceeded in the following fishing year, then the gillnet ACL would be reduced again in the subsequent fishing year by the amount of the most recent gillnet ACL overage. Because the proposed trip limit increase could increase the chance of exceeding the gillnet ACL, a payback provision would help ensure that any overage is mitigated in the following year.

Dealer Reporting Requirements

This proposed rule would modify the reporting requirements for federally permitted dealers purchasing commercial king mackerel harvested by gillnets. Currently,

such dealers are required to submit an electronic form daily to NMFS by 6 a.m. during the gillnet fishing season for purposes of monitoring the gillnet ACL. However, because some vessels land their catch after midnight and may have long offloading times, some gillnet landings are not reported until the following day. Further, the electronic monitoring system involves processing and quality control time before the data can be passed to NMFS fishery managers. This results in some landings information not reaching NMFS until nearly 2 days after the the fish are harvested.

This proposed rule would change the daily electronic reporting requirement to daily reporting by some other means determined by NMFS, such as using port agent reports or some more direct method of reporting to NMFS fishery managers (e.g., by telephone or internet). If the proposed rule is implemented, NMFS would work with dealers to establish a landings reporting system that would minimize the burden to the dealers as well as the time for landings to reach NMFS fishery managers. NMFS would then provide written notice to the king mackerel gillnet dealers of the requirements of the reporting system, and will also post this information on the NMFS Southeast Regional Office Web

site. Prior to the beginning of each subsequent commercial king mackerel gillnet season, NMFS would provide written notice to king mackerel gillnet dealers if the reporting method and deadline change from the previous year, and will also post this information on the NMFS Southeast Regional Office Web site. Dealers would also report gillnet-caught king mackerel in their regular weekly electronic report of all species purchased to ensure king mackerel landings are included in the Commercial Landings Monitoring database maintained by the Southeast Fisheries Science Center.

Renewal Requirements for King Mackerel Gillnet Permits

This proposed rule would change the renewal requirements for a king mackerel gillnet permit. A king mackerel gillnet permit would be renewable only if the vessel associated with the permit landed at least 1 lb (0.45 kg) of king mackerel during any one year between 2006 and 2015. Currently, there are 21 vessels with valid or renewable gillnet permits; 4 of these vessels have had no landings since 2001 and the permits associated with those vessels would no longer be renewable. Some active gillnet fishermen are concerned that permit holders who have not been fishing may begin participating in the gillnet component of the fishery, which would result in increased

effort in a sector that already has a limited season. For example, the 2014/2015 season, which closed on February 20, 2015, was 32 days long and included 5 days of active fishing. Requiring a landings history of king mackerel in any one of the last 10 years to renew a gillnet permit would help ensure the continued participation of those permit holders who actively fish or have done so in the more recent past.

NMFS would notify each king mackerel gillnet permittee to advise them whether the gillnet permit is eligible for renewal based upon NMFS' initial determination of eligibility. If NMFS advises a permittee that the permit is not renewable and they do not agree, a permittee may appeal that initial determination.

NMFS would establish an appeals process to provide a procedure for resolving disputes regarding eligibility to renew the king mackerel gillnet permit. The NMFS National Appeals Office would process any appeals, which would be governed by the regulations and policy of the National Appeals Office at 15 CFR Part 906. Appeals would need to be submitted to the National Appeals Office no later than 90 days after the date the initial determination by NMFS is issued. Determinations of appeals would be based on

NMFS' logbook records, submitted on or before 30 days after the effective date of any final rule. If NMFS' logbooks are not available, state landings records that were submitted in compliance with applicable Federal and state regulations on or before 30 days after the effective date of any final rule, may be used.

Other Changes to the Codified Text

In addition to the measures described for Framework Amendment 3, this proposed rule would correct an error in the recreational regulations for king mackerel, Spanish mackerel, and cobia. The regulatory text in § 622.388(a)(2), (c)(1), and (e)(1)(i) includes the statement that "the bag and possession limit would also apply in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for coastal migratory pelagic fish has been issued, without regard to where such species were harvested, *i.e.*, in state or Federal waters." This was included in the final rule for Amendment 18 to the FMP included statements (76 FR 82058, December 29, 2011), but the Council did not approve this provision for CMP species. This proposed rule would remove that text.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-

Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Framework Amendment 3, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA), as required by section 603 of the Regulatory Flexibility Act, for this proposed rule. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, the objectives of, and legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A copy of the full analysis is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified.

In general, the proposed rule is not expected to change current reporting, record-keeping, and other compliance requirements on vessel owners. However, the

proposed rule would replace the dealer daily electronic reporting requirement with daily reporting by some other means as determined by NMFS. This could involve reporting to a port agent, as used in the past or some more direct method of reporting to managers (e.g., by telephone or internet). NMFS would work with dealers to establish a system that will minimize the burden to the dealers as well as the time for landings to reach managers. Dealers would still have to report king mackerel gillnet landings through the electronic monitoring system weekly, when they report all species purchased. The weekly reporting would ensure any king mackerel landings are included in the Commercial Landings Monitoring database maintained by the Southeast Fisheries Science Center.

This proposed rule, if implemented, is expected to directly affect commercial fishermen with valid or renewable Federal Gulf king mackerel gillnet permits and dealers purchasing king mackerel from vessels with king mackerel gillnet permits. The Small Business Administration established size criteria for all major industry sectors in the U.S. including commercial finfish harvesters (NAICS code 114111), seafood dealers/wholesalers (NAICS code 424460), and seafood processors (NAICS code 311710). A

business primarily involved in finfish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$20.5 million for all its affiliated operations worldwide. A business involved in seafood purchasing and processing is classified as a small business based on either employment standards or revenue thresholds. A business primarily involved in seafood processing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual employment not in excess of 500 employees for all its affiliated operations worldwide. For seafood dealers/wholesalers, the other qualifiers apply and the employment threshold is 100 employees. The revenue threshold for seafood dealers/wholesalers/processors is \$7.5 million.

The Federal commercial king mackerel permit is a limited access permit, which can be transferred or sold, subject to certain conditions. From 2008 through 2014, the number of commercial king mackerel permits decreased from 1,619 in 2008 to 1,478 in 2014, with an average of 1,534

during this period. As of April 30, 2015, there were 1,342 valid or renewable commercial king mackerel permits. The king mackerel gillnet permit, which acts as an endorsement to a commercial king mackerel permit, is also a limited access permit. Its transferability is more restrictive than that for the commercial king mackerel permit. Specifically, it may be transferred only to another vessel owned by the same entity or to an immediate family member. From 2008 through 2014, there were an average of 23 king mackerel gillnet permits. At present, there are 21 valid or renewable king mackerel gillnet permits. Beginning in 2014, a Federal dealer permit has been required to purchase king mackerel (among other species) harvested in the Gulf or South Atlantic. This dealer permit is an open access permit, and as of May 4, 2015, there were 325 such dealer permits.

Of the 21 vessels with king mackerel gillnet permits, 11 to 15 vessels landed king mackerel each year from 2006-2014, or an average of 13 vessels landed king mackerel. These vessels generated a combined average of \$544,981 in total ex-vessel revenues. These vessels, together with those that did not catch king mackerel, generated average revenues of \$427,258 from other species during 2006-2014.

Averaging total revenues across all 21 vessels, the average total revenue per vessel was \$46,297 annually.

From 2008 through 2015, the number of dealers that purchased king mackerel from gillnet fishermen ranged from 4 to 6, with an average of 5. On average (2008-2015), these dealers purchased approximately \$570,105 (2014 dollars) worth of king mackerel from gillnet fishermen, or an average of \$114,021 per dealer. These dealers also purchased other species from Gulf and South Atlantic commercial fishermen, but the total amount cannot be estimated due to the absence of adequate information. The estimated average annual revenue from seafood purchases for dealers with a Gulf and South Atlantic Federal dealer permit is approximately \$546,000.

Based on the revenue figures above, all federally permitted vessels and dealers expected to be directly affected by this proposed rule are assumed for the purpose of this analysis to be small business entities.

Because all entities expected to be affected by this proposed rule are assumed to be small entities, NMFS has determined that this proposed rule would affect a substantial number of small entities. Moreover, the issue of disproportionate effects on small versus large entities

does not arise in the present case.

Increasing the commercial trip limit would be expected to result in greater king mackerel harvests per vessel per trip. This would directly translate into increased ex-vessel revenues from king mackerel per trip and possibly profits, assuming relatively stable operating costs per trip. However, trip limit increases would be expected to decrease the already limited number of fishing days currently needed to harvest the gillnet portion of the king mackerel quota. Relative to status quo, fewer fishing days would concentrate the same amount of king mackerel over a smaller time interval, possibly depressing the ex-vessel price for king mackerel and canceling out some of the revenue increases expected to result from higher trip limits. Whether the reduction in revenues due to price depression would offset revenue increases from a higher trip limit cannot be determined with available information.

In the last nine fishing years (2006/2007-2014/2015), the king mackerel gillnet quota was exceeded four times although this has not occurred in the last three years. Under the proposed trip limit increase, however, there is some possibility that the quota would be exceeded, and thus the overage provision (payback) would apply with the

following year's quota being reduced by the full amount of the overage. The amount of overage would partly depend on how effectively the landings could be monitored. Regardless of the amount of overage and reduction in the following year's quota, the net economic effects of the overage provision could be negative, neutral, or positive, at least over a two-year period. Revenues and profits could be relatively higher if an overage occurred but the following year's revenues and profits could be lower with a reduced quota. It cannot be ascertained which of the three net economic effects would occur.

Replacing the requirement for daily electronic reporting by dealers purchasing gillnet-caught king mackerel with an alternative form of daily reporting would not impose an additional reporting burden on dealers. The replacement reporting requirement would be similar to what had been done in previous years or it could be more efficient in monitoring the amount of landings without changing the burden compared with the current daily electronic reporting requirement. NMFS would work with the dealers in developing such a reporting system to ensure timely reporting of landings at no greater burden to the dealers.

Establishing new renewal requirements for commercial king mackerel gillnet permits based on a landings threshold of one pound would not be expected to result in economic effects other than the potential loss of opportunities to excluded permit holders, should they want to re-enter the gillnet component of the fishery to harvest king mackerel in the future. Of the 21 vessels with valid or renewable gillnet permits, 4 vessels would not meet the renewal requirement. These 4 vessels have not landed any king mackerel using gillnets from 2001 through 2015, and thus have not generated any revenues from such activity. Disallowing these 4 vessels to renew their gillnet permits would have no short-term effects on their revenues and profits. It may also be expected that the remaining vessels in the gillnet component of fishery would not experience revenue increases as a result of eliminating 4 vessels. Despite not having used gillnets to harvest king mackerel, those 4 permit owners have continued to renew their gillnet permits. To an extent, their decision not to exercise their option to re-enter the gillnet component of the fishery in the last 15 years may indicate that they have not undertaken substantial investments, *e.g.*, in boats and gear, in preparation for harvesting king mackerel. The

gillnet permit cost they have spent, which is currently \$10 annually per gillnet permit, is relatively small. There is a good possibility that if they are not able to renew their permits to re-enter the king mackerel gillnet component of the CMP fishery they would not lose any significant investments. They still would stand to forgo future revenues from using gillnets in fishing for king mackerel. Those remaining in the fishery would not face the possibility of additional competition from those ineligible vessels.

The following discussion describes the alternatives that were not selected as preferred by the Council.

Four alternatives, including the preferred alternative, were considered for modifying the commercial daily trip limit for gillnet-caught king mackerel. The first alternative, the no action alternative, would retain the 25,000 lb (11,340 kg) trip limit. This alternative would maintain the same economic benefits per trip but at levels lower than those afforded by the preferred alternative. The second alternative, which would increase the trip limit to 35,000 lb (15,876 kg), would yield lower economic benefits per trip than the preferred alternative. The third alternative would remove the trip limit, and thus

would be expected to yield higher economic benefits per trip than the preferred alternative. However, it cannot be determined whether the benefits per trip would translate into total benefits because prices, and thus revenues, would tend to be affected by the amount of landings over a certain time period. This price effect would tend to offset any revenue effects from trip limit changes. That is, larger landings over a shorter period, as in the preferred or no trip limit alternatives, would tend to be associated with lower prices, just as smaller landings over a longer period, as in the no action alternative, would tend to be associated with higher prices. The net economic effects of all these alternatives for increasing the trip limit cannot be determined.

Three alternatives, including the preferred alternative, were considered for modifying the AM for the gillnet component of the king mackerel fishery. The first alternative, the no action alternative, would retain the in-season AM, which would close king mackerel gillnet fishing in the Florida west coast southern subzone when the quota is met or is projected to be met. This alternative would not alter the level of economic benefits from the harvest of king mackerel by commercial gillnet fishermen.

The second alternative would establish an annual catch target (ACT), which is the quota, with various options. The first three options would establish an ACT equal to 95 percent, 90 percent, or 80 percent of the gillnet ACL; the fourth option would set the ACT according to the Gulf Council's ACL/ACT control rule (currently equal to 95 percent of the ACL); and the fifth option, which applies only if an ACT is established, would allow the amount of landings under the quota to be added to the following year's quota but the total quota could not exceed the gillnet ACL. The first four options would result in lower short-term revenues and profits than the preferred alternative by restricting the amount of harvest to less than the gillnet ACL. The fifth option has the potential to yield higher revenues than the preferred alternative, because any unused quota would generate additional revenues in the following year. The absence of an overage provision, however, would have adverse consequences on the status of the king mackerel stock and eventually on vessel revenues and profits. The third alternative, with two options, would establish a payback provision. The first option is the preferred alternative, which would establish a payback provision regardless of the stock status, while the second

option would establish a payback provision only if the Gulf migratory group king mackerel stock is overfished. Because the Gulf migratory group king mackerel stock is not overfished, the second option would yield the same economic results as the no action alternative but possibly lower adverse economic impacts than the preferred alternative in the short term should an overage occurs. However, the second option would provide less protection to the king mackerel stock before the stock becomes overfished.

Three alternatives, including the preferred alternative, were considered for modifying the electronic reporting requirements for dealers first receiving king mackerel harvested by gillnets. The first alternative, the no action alternative, would retain the daily electronic reporting requirements. This alternative would not provide timely reporting of landings because some landings reports could not be processed until the next day. The second alternative would remove the daily electronic reporting requirement but would require a weekly electronic reporting instead. While this would be less burdensome to dealers, it would not allow timely reporting of landings, which is necessary to monitor a season that generally lasts for only a few days.

Five alternatives, including the preferred alternative, were considered for renewal requirements for king mackerel gillnet permits. The first alternative, the no action alternative, would maintain all current requirements for renewing king mackerel gillnet permits. This alternative would allow all 21 gillnet permit holders to renew their gillnet permits. The second alternative, with three options, would allow renewal of king mackerel gillnet permits if average landings during 2006-2015 exceed 1 lb (0.45 kg), 10,000 lb (4,536 kg), or 25,000 lb (11,340 kg). The third alternative, with three options, would allow renewal of king mackerel gillnet permits if landings for a single year during 2006-2015 exceed 1 lb (0.45 kg), 10,000 lb (4,536 kg), or 25,000 lb (11,340 kg). This alternative with a landings threshold of 1 lb (0.45 kg) is the preferred alternative. The fourth alternative, with three options, would allow renewal of king mackerel gillnet permits if average landings during 2011-2015 exceed 1 lb (0.45 kg), 10,000 lb (4,536 kg), or 25,000 lb (11,340 kg). The fifth alternative, with three options, would allow renewal of king mackerel gillnet permits if landings for a single year during 2011-2015 exceed 1 lb (0.45 kg), 10,000 lb (4,536 kg), or 25,000 lb (11,340 kg). All these other

alternatives, except the no action alternative, would eliminate the same or greater number of vessels than the preferred alternative.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). NMFS is changing the collection-of-information requirement under OMB Control Number 0648-0013. NMFS estimates that no change to the overall reporting burden would result from modifying the required daily reporting method for dealers that purchase king mackerel caught by gillnets during the fishing season. Instead of submitting an electronic form daily, NMFS would require daily reporting by some other means as developed by NMFS. Other means could involve reporting to the NMFS port agents or some other more direct method of reporting to managers, such as by email or phone. Dealers would report any purchase of king mackerel landed by the gillnet component of the fishery with the current and approved requirement for dealers to report fish purchases on a weekly basis, as specified in 50 CFR 622.5(c). NMFS estimates that this requirement would not change the reporting burden of 10 minutes per response for dealers purchasing king mackerel caught by gillnets. This estimate of the public reporting burden includes the time

for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection-of-information. NMFS will submit this change request to OMB for approval.

NMFS seeks public comment regarding:

- Whether this proposed collection-of-information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- The accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected;
- The instructions for how to fill out the form or record the information; and
- Ways to minimize the burden of the collection-of-information, including through the use of automated collection techniques or other forms of information technology.

Send comments regarding the burden estimate or any other aspect of the collection-of-information requirement, including suggestions for reducing the burden, to NMFS or to OMB (see **ADDRESSES**).

Notwithstanding any other provision of law, no person

is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number. All currently approved collections of information may be viewed at:

http://www.cio.noaa.gov/services_programs/prasubs.html.

List of Subjects in 50 CFR Part 622

Accountability measure, Annual catch limit, Fisheries, Fishing, Gulf of Mexico, King mackerel, Permits, Run-around gillnet.

Dated: September 30, 2015

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory
Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND

SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 622.5, revise paragraph (c)(1)(i) to read as follows:

§ 622.5 Recordkeeping and reporting--general.

* * * * *

(c) * * *

(1) * * *

(i) A person issued a Gulf and South Atlantic dealer permit must submit a detailed electronic report of all fish first received for a commercial purpose within the time period specified in this paragraph via the dealer electronic trip ticket reporting system. These electronic reports must be submitted at weekly intervals via the dealer electronic trip ticket reporting system by 11:59 p.m., local time, the Tuesday following a reporting week. If no fish were received during a reporting week, an electronic report so stating must be submitted for that reporting week. In addition, during the open season, dealers must submit daily reports for Gulf migratory group king mackerel harvested by the run-around gillnet component

in the Florida west coast southern subzone via the port agents, telephone, internet, or other similar means determined by NMFS. From the beginning of the open season until the commercial ACL (commercial quota) for the run-around gillnet sector for Gulf migratory group king mackerel is reached, dealers must submit a daily report if no king mackerel were received during the previous day. NMFS will provide written notice to dealers that first receive Gulf king mackerel harvested by the run-around gillnet component prior to the beginning of each fishing year if the reporting methods or deadline change from the previous year.

* * * * *

3. In § 622.371, revise paragraph (a) to read as follows:

§ 622.371 Limited access system for commercial vessel permits for king mackerel.

(a) No applications for additional commercial vessel permits for king mackerel will be accepted. Existing vessel permits may be renewed, are subject to the restrictions on transfer or change in paragraph (b) of this section, and are subject to the requirement for timely renewal in paragraph (c) of this section.

* * * * *

4. In § 622.372, add paragraph (d) to read as follows:

§ 622.372 Limited access system for king mackerel gillnet permits applicable in the Florida west coast southern subzone.

* * * * *

(d) *Renewal criteria for a king mackerel gillnet permit.* A king mackerel gillnet permit may be renewed only if NMFS determines at least 1 year of landings from 2006 to 2015 associated with that permit was greater than 1 lb (0.45 kg), round or gutted weight.

(1) *Initial determination.* On or about [7 days after the date of publication of the final rule in the Federal Register], the RA will mail each king mackerel gillnet permittee a letter via certified mail, return receipt requested, to the permittee's address of record as listed in NMFS' permit files, advising the permittee whether the permit is eligible for renewal. A permittee who does not receive a letter from the RA, must contact the RA no later than [7 days after the date of publication of the final rule in the Federal Register], to clarify the renewal status of the permit. A permittee who is advised that the permit is not renewable based on the RA's determination of

eligibility and who disagrees with that determination may appeal that determination.

(2) *Procedure for appealing landings information.* The only item subject to appeal is the landings used to determine whether the permit is eligible for renewal. Appeals based on hardship factors will not be considered. Any appeal under this regulation will be processed by the NMFS National Appeals Office. Appeals will be governed by the regulations and policy of the National Appeals Office at 15 CFR Part 906. Appeals must be submitted to the National Appeals Office no later than 90 days after the date the initial determination is issued. Determinations of appeals regarding landings data for 2006 to 2015 will be based on NMFS' logbook records, submitted on or before [60 days after the date of publication of the final rule in the Federal Register]. If NMFS' logbooks are not available, state landings records or data for 2006 to 2015 that were submitted in compliance with applicable Federal and state regulations on or before [60 days after the date of publication of the final rule in the Federal Register], may be used.

* * * * *

5. In § 622.385, revise paragraph (a)(2)(ii)(A)(1) to

read as follows:

§ 622.385 Commercial trip limits.

* * * * *

(a) * * *

(2) * * *

(ii) * * *

(A) * * *

(1) In the Florida west coast southern subzone, king mackerel in or from the EEZ may be possessed on board or landed from a vessel for which a commercial vessel permit for king mackerel and a king mackerel gillnet permit have been issued, as required under § 622.370(a)(2), in amounts not exceeding 45,000 lb (20,411 kg) per day, provided the gillnet component for Gulf migratory group king mackerel is not closed under § 622.378(a) or § 622.8(b).

* * * * *

6. In § 622.388:

a. Add paragraph (a)(1)(iii); and

b. Revise paragraphs (a)(2), (c)(1), and (e)(1)(i) to

read as follows:

§ 622.388 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(a) * * *

(1) * * *

(iii) If commercial landings for Gulf migratory group king mackerel caught by run-around gillnet in the Florida west coast southern subzone, as estimated by the SRD, exceed the commercial ACL, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for king mackerel harvested by run-around gillnet in the Florida west coast southern subzone in the following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* If recreational landings, as estimated by the SRD, reach or are projected to reach the recreational ACL of 8.092 million lb (3.670 million kg), the AA will file a notification with the Office of the Federal Register to implement a bag and possession limit for Gulf migratory group king mackerel of zero, unless the best scientific information available determines that a bag limit reduction is unnecessary.

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(c) * * *

(1) If the sum of the commercial and recreational landings, as estimated by the SRD, reaches or is projected

to reach the stock ACL, as specified in paragraph (c)(3) of this section, the AA will file a notification with the Office of the Federal Register to close the commercial and recreational sectors for the remainder of the fishing year. On and after the effective date of such a notification, all sale and purchase of Gulf migratory group Spanish mackerel is prohibited and the harvest and possession limit of this species in or from the Gulf EEZ is zero.

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(e) * * *

(1) * * *

(i) If the sum of all cobia landings, as estimated by the SRD, reaches or is projected to reach the stock quota (stock ACT), specified in § 622.384(d)(1), the AA will file a notification with the Office of the Federal Register to prohibit the harvest of Gulf migratory group cobia in the Gulf zone for the remainder of the fishing year. On and after the effective date of such a notification, all sale and purchase of Gulf migratory group cobia in the Gulf zone is prohibited and the possession limit of this species in or from the Gulf EEZ is zero.

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